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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,164	10/29/2001	Wade W. Smith	WMS- 15	9573

7590 07/08/2009

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 07/08/2009

Please find below and/or attached an Office communication concerning this application or proceeding.

The following is in accordance with Administrative Remand to Examiner:

Status of Claims

A review of the file finds that the status of the claims as provided in the Appeal Brief filed June 12, 2006, under the heading "Status of Claims" is unclear and/or is not consistent with the status of claims of record in accordance with 37 CFR 41.37(c)(1)(iii). The status of the claims as provided in the Appeal Brief must be consistent with the last entered amendment. Each claim on appeal must be identified. *See also Manual of Patent Examining Procedure (MPEP) § 1205.02 (8th ed. Rev. 6, Sept 2007) for details.*

A review of the last entered amendment finds that claims 3 is rejected; whereas Appellant has either not indicated the status of this claim. Correction of the status of all claims is required.

Summary of Claimed Subject Matter

Appellant filed an Appeal Brief dated June 12, 2006. The Appeal Brief is not in compliance with 37 CFR § 41.37(c) effective September 13, 2004. According to 37 CFR § 41.37(c) (v), an Appeal Brief must include the following:

(v) *Summary Of Claimed Subject Matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which must refer to the specification by page and line number, and to the drawing, if any, by reference characters. While reference to page and line number of the specification **>requires somewhat more detail than simply summarizing the invention, it is considered important to enable the Board to more quickly determine where the claimed subject matter is described in the application. >For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of 37 CFR 41.37(c)(1)(vii), every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts

described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

The "Summary of claimed subject matter" appearing on pages 7-8 of the Appeal Brief filed June 12, 2006, is deficient because it does not separately map independent claims 1 and 4 to the specification.

Correction is required.

MPEP § 1205.03 states in part:

(B) When the Office holds the brief to be defective solely due to appellant's failure to provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), an entire new brief need not, and should not, be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office's requirement will result in dismissal of the appeal. See MPEP § 1215.04 and § 711.02(b).

/Igor N. Borissov/

Primary Examiner, Art Unit 3628

07/06/2009